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**IN THE
COURT OF APPEALS OF INDIANA**

LESTER T. SMITH,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 49A02-0701-CR-47
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Robert Altice, Judge
Cause No. 49G02-0602-FB-33574

August 29, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Lester T. Smith appeals his convictions of two counts of residential entry as a Class D

felony¹ contending that the evidence supporting his convictions was insufficient because it consisted of coerced testimony rendering the testimony incredibly dubious. Because we find that Smith has failed to make a cogent argument in support of his claim, we affirm the trial court's decision.

“For testimony to be so inherently incredible that it is disregarded based on a finding of ‘incredible dubiousity,’ the witness must present testimony that is inherently contradictory, wholly equivocal or the result of coercion, and there must also be a complete lack of circumstantial evidence of the defendant's guilt.” *Clay v. State*, 755 N.E.2d 187, 189 (Ind.2001). “Application of this rule is rare; the standard to be applied is whether the testimony is so incredibly dubious or inherently improbable that no reasonable person could believe it.” *Herron v. State*, 808 N.E.2d 172, 176 (Ind.Ct.App.2004), *trans. denied*.

Indiana Appellate Rule 46 (A)(8) requires that an appellant's argument be supported by cogent reasoning. Here, the only evidence which Smith cites in support of his contention that the testimony upon which his convictions rest was coerced is the following question from a juror posed by the court to the witness Jeremy Merriweather² and his answer:

Q. . . . Did your mom, your brother and Ms. Gagen [the deputy prosecutor] here, did you talk about how you should answer questions today and what your answers to particular questions should be? Tell these folks.

A. Yes.

Transcript at 152.

Immediately following the foregoing exchange, the following testimony was given by the witness in response to questions posed by Deputy Prosecutor Gagen:

¹ Ind. Code § 35-43-2-1.5

Q. Jeremy, when you and I talked about having to answer questions, do you remember what I told you?

A. Yes

Q. What did I tell you?

A. I don't really remember what you told me.

Q. Okay. Did I tell you to tell the truth?

A. Yes.

Q. Did I tell you that I don't care what the answers are as long as they're the truth?

A. Yes.

Transcript at 153.

Such is not the stuff of which coercion is made. There is no evidence of threats, duress, or improper incentives. There was no evidence of any improper coaching by the State or Mr. Merriweather's mother. There is no evidence of coercion.

Affirmed.

ROBB, J., and BARNES, J., concur.

² Jeremy Merriweather is the son of Camille McCloud whose residence Smith was convicted of illegally entering.